



## CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 10/19/00

Agenda Item 1

**TO:** Planning Commission

**FROM:** James V. De Luz, Assistant Planner

**SUBJECT:** **Appeal of Denial of Administrative Variance No, 00-180-12 - Jack Hagg (Appellant) Jack and Antonia Hagg (Owners):** Appeal of the Planning Director's Action Denying a Variance Application to Retain a Storage Shed 3 feet from a Side Street Yard Property Line Where a Minimum 10 foot Setback is Required. - The Property is Located at 3692 Roxbury Lane, at the Northwest Corner of Roxbury Lane and Pelham Place (Hayward Highlands Neighborhood/ Woodland Estates area) in the Single-Family Residential - Minimum 10,000 Square Foot Lots (RS-B10) District

### RECOMMENDATION:

It is recommended that the Planning Commission find that the project is categorically exempt from CEQA, uphold the Planning Director's action, and deny the variance, subject to the attached findings.

### BACKGROUND:

The property is located within a single-family subdivision of one and two-story homes located on large lots, most of which are 10,000 square feet or larger. The applicant's corner parcel is irregular in shape and is approximately 10,494 square-feet in area. The parcel is developed with a one-story, single-family residence. Many of the homes in the area, including the home on the subject property, were built with generous side, rear, and side street yard setback areas that exceed typical setbacks in most residential subdivisions. The property is located in the hill area where many yard areas within the subdivision are encumbered by slopes and slope easements that were designed for stability and drainage purposes and to create level useable lots.

The shed in question came to staff's attention via a complaint to the Community Preservation Division. The appellant was asked to relocate the shed and apply for a building permit, and he chose instead to seek approval of a variance.

The requested variance is to retain a 176-square-foot storage shed constructed without building permit approval located 3 feet from a side street yard property line where a minimum 10 foot setback is required. The appellant's property is located on a corner parcel where a graded landscaped bank approximately 4 feet to 5 feet in height separates the applicant's side and rear

yard from the adjacent side street, Pelham Place. An area within the bank was excavated to accommodate construction of the shed. If approval of the variance is granted, the Building Official will require building permit approval for the shed and approval of an engineered soils report confirming the stability of the bank, shed construction, and foundation design prior to building permit issuance. The shed is roofed with heavy tab architectural shingles and is sided with exterior horizontal wood siding to match the applicant's home. The home is sided with white masonite hard board siding that somewhat resembles stucco from a distance. The applicant plans to paint the shed to match his home once the outcome off the variance is determined.

A 6-foot-high grape stake fence is located at the top of bank along the Pelham Place property line and is setback 9 feet from the curb. The fence screens all but a small portion of the shed as seen from the intersection of Pelham Way and Roxbury Lane. Normally a 6-foot fence would be situated at least 10 feet from the side street property line, the same setback as required for the existing shed; however, the fence appears to have been located along the side street property line at the time the subdivision was constructed.

In his appeal letter, Mr. Hagg states that site constraints, namely landscaping, restrict the location of an accessory structure on his property, that the shed is unobtrusive, it does not compromise slope stability, and it complies with the CC&Rs of the Woodland Estates Community Association (see appellant's letter dated 7/2000). The Woodland Estates Community Association has also submitted a letter in support of the variance; see attached letter dated 6/26/2000. The Association stated that the shed is not detrimental to the appearance of the property, it complies with the Association's CC&Rs, and that it is not constructed within a controlled planting area or within an erosion control area where it would compromise slope stability. However, in the opinion of the Planning Director, requisite findings cannot be made that support the requested variance. Namely, there are no special circumstances applicable to the property that prevent locating a shed outside required setbacks as sufficient area exists within the appellant's rear yard to accommodate the construction of the shed in compliance with the City's accessory structure setback requirements. In addition no other similar variances have been granted in the neighborhood.

## **ENVIRONMENTAL REVIEW:**

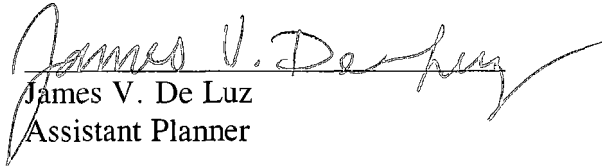
The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303(e), *New Construction or Conversion of Small Structures*.

## **PUBLIC NOTICE:**

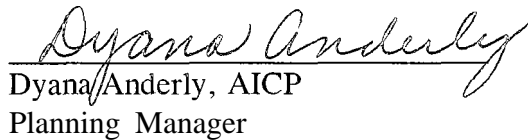
On October 6, 2000, a Notice of Public Hearing was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessors records. Notice was also provided to the former task force members of the Hayward Highlands Neighborhood Plan, interested parties and to the Woodland Estates Neighborhood Association. Previously a notice seeking general comments regarding the variance was mailed to all the above individuals

and organizations when the appellant submitted the variance request. Later a Notice of Decision informing the public of the Planning Director's decision to deny the variance was mailed to all the same individuals when the Planning Director administratively denied the variance. Numerous telephone inquiries were received both in opposition to and in favor of the variance request and other inquiries were received from interested parties seeking general information regarding the variance.

Prepared by :

  
James V. De Luz  
Assistant Planner

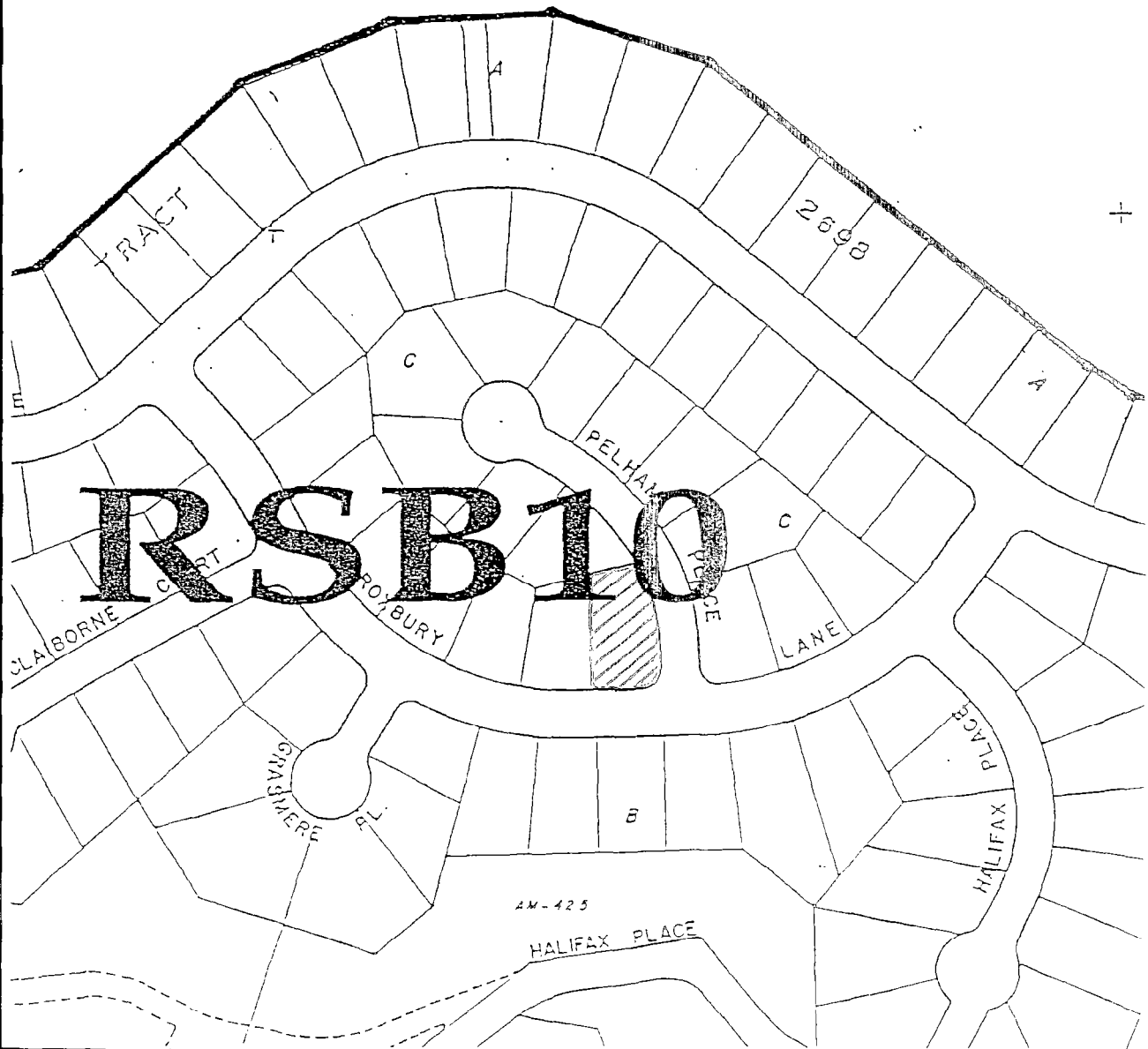
Recommended by:

  
Dyana Anderly, AICP  
Planning Manager

Attachments :

- A. Area Map
  - B. Findings
  - C. Appellant's Letter to Planning Commissioners dated 7/2000
  - D. Appellant's Letter of Appeal dated 7/2000
  - E. Woodland Estates Community Association Letter dated 6/26/2000
- Plans

# RSB4



Area & Zoning Map  
VAR00-180-12  
3692 Roxbury Lane  
Applicant/Owner: Jack & Antonia Hagg

**VARIANCE APPLICATION NO. 00-180-12**

**Jack and Antonia Hagg (Applicants/Owners)**

**FINDINGS**

July 7, 2000

**Findings For Denial** – Request a variance to retain storage shed 176 square feet in area constructed without building permits located 3 feet from a side street yard property line where a minimum 10 foot setback is required.

- A. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303(e), *New Construction or Conversion of Small Structure*.
- B. There are no special circumstances applicable to the property regarding this request in that the characteristics of the subject property are similar to other parcels in the vicinity and that sufficient area exists within the appellant's rear yard to accommodate the construction of the shed and to also comply with the City's accessory structure setback requirements.
- C. Strict application of the Zoning Ordinance would not deprive such property of privileges enjoyed by other property in the vicinity under the same zoning classification in that no other similar variances have been approved in the vicinity.
- D. The variance would constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and the Single-Family Residential zone in which the property is situated.
- E. The variance would compromise the purpose of the zoning district and that a detrimental impact would result in that the location of the shed is located within a required side street yard setback area and that other similar properties may desire similar variance requests that could detrimentally impact the zoning district and that approval of many requests could potentially change the character of the neighborhood.

ATTACHMENT B

July 2000

RECEIVED

From: Jack & Antonia Hagg  
To: Member, Hayward Planning Commission  
Subject: Utility Shed Variance #2000-180-12

JUL 07 2000

PLANNING DIVISION

My name is Jack Hagg and I live at 3692 Roxbury L. (Woodland Estates) Hayward and we are applying for a variance for a utility shed we built on our property.

In the past year we put up a utility shed on our property in order to meet our needs for additional storage space for garden tools and other equipment.

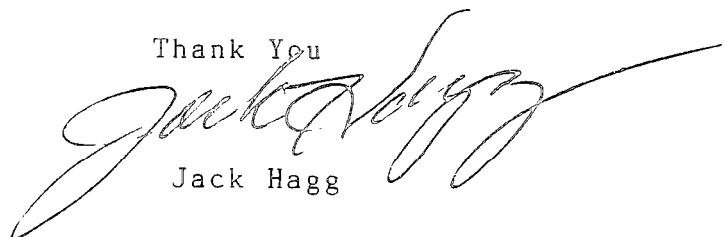
We placed it at a site that would eliminate the forced removal of 20 to 25 year old bearing fruit trees, such as apple, plum, apricote and an established rose garden, plus a vegetable garden area. My lot is large by today's standards, however due to two sloping areas it reduces the amount of usable space.

It is our hope that the planning commission give favorable consideration to a well built but simply a utility shed that we built with the aid of my son and grandson.

We have not built this shed on any soil erosion or control planting areas. My son, a journeyman carpenter in Alameda & Contra Costa Counties for the past 28 years helped me construct this shed to meet building code requirements. He builds houses for a living.

The shed is of low profile and barely discernable from the street. It constitutes no bad appearance from what my neighbors tell me. We have lived on Roxbury for the past 27 years following my retirement from the U.S. Navy and subsequent retirement from Kaiser Center Oakland.

Thank You

A large, stylized handwritten signature in black ink, appearing to read 'Jack Hagg', is written over the printed name.

Jack Hagg

ATTACHMENT C

July 2000

RECEIVED

From: Jack Hagg, 3692 Roxbury Ln, Hayward

JUL 07 2000

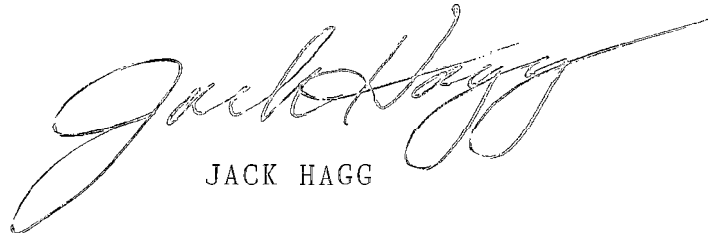
To: Planning Dept. City Of Hayward

PLANNING DIVISION

Subject: Appeal of Variance

I, Jack Hagg, property owner at 3692 Roxbury Ln. hereby appeal the decision of the Planning Director denying my variance application 00-180-12. The basis of my appeal is:

- 1) The shed is unobtrusive, it is barely visible from either Roxbury Ln. or Pelham Pl. and it is located behind a 6 ft fence.
- 2) Because of established landscaping and other site improvements location of the shed within the other areas of the rear yard would be prohibitive.
- 3) It (the Shed) complies with the CC&R'S of Woodland Estates Home Owners Association.
- 4) The location will and is not comprising the slope as it is not an engineered slope as per the records on file of the Woodland Estates subdivision.



JACK HAGG

ATTACHMENT D

WOODLAND ESTATES COMMUNITY ASSOCIATION  
2494 OAKES DRIVE  
HAYWARD, CA 94542  
TEL: 510-727-0635

ATTN: James V. DeLuz, Project Planner  
City of Hayward Planning Division,  
777 B Street  
Hayward, CA 94541  
Phone # 510-583-4212  
F a x #510-583-3649

The Board of Directors of Woodland Estates Community Association has met and had substantial discussion regarding the request of Woodland Estates Resident Jack and Antonia Hagg of 3692 Roxbury Lane, Hayward, to grant a variance to the set back required for the shed constructed on his property.

We have reviewed the CC and R's of the said property and the shed in question is not constructed on any cross hatched soil erosion or control planting areas per the plat drawing of the CC and R's.

Therefore the Board has approved the City of Hayward's plan do grant the Hagg's a variance provided the shed complies with all the City Building Code requirements.

The board also agreed that the shed was not detrimental to the appearance of the property,

If you have any questions please call.

Sincerely,

  
Noel R Pinto 6-26-2000  
Member of the Board  
Woodland Estates Community Associations,

ATTACHMENT E